

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**

04/11/23

10:19 AM

A2208007

April 11, 2023

Agenda ID #21510
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 22-08-007:

This is the proposed decision of Administrative Law Judge KieuChinh Tran. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's May 18, 2023 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Acting Chief Administrative Law Judge

MLC:mph

Attachment

Decision **PROPOSED DECISION OF ALJ KIEUCHINH TRAN**
(Mailed 4/11/2023)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) to issue, sell, and deliver debt securities consisting of long term notes not exceeding \$397,261,000 in the aggregate, and other related requests.

Application 22-08-007

**DECISION AUTHORIZING CALIFORNIA-AMERICAN WATER COMPANY TO
ISSUE UP TO \$397,261,000 IN NEW LONG-TERM DEBT SECURITIES****Summary**

This decision grants California-American Water Company (Cal Am) authority to issue up to \$397,261,000 in new long-term debt securities through its affiliate American Water Capital Corporation or directly with governmental entities over the five-year period of 2022-2026. This decision also authorizes Cal Am's requested waiver of the Public Utilities Code § 818 requirement. Cal Am may issue short-term debt securities for up to twenty-four months duration and utilize selected debt securities enhancement and interest rate management features to improve the terms and obtain the least cost financing available for new securities.

The proceeding is closed.

1. Procedural Background

California-American Water Company (Cal Am) is a public utility corporation providing water service in portions of the counties of Los Angeles,

Ventura, San Diego, Monterey, Sacramento, Placer, Yolo, Merced, and Sonoma. Cal Am is a Class-A¹ water utility subject to the jurisdiction of the California Public Utilities Commission (the Commission).

On August 25, 2022, Cal Am (U-210-W) filed Application (A.) 22-08-007, seeking authority to issue, sell and deliver debt securities consisting of long-term notes not exceeding \$397,261,000 in the aggregate, and other related requests.

On September 15, 2022, Resolution ALJ 176-3514 preliminarily categorized this application as ratesetting and determined that hearings were not necessary. There were no protests or responses to the application.

On December 6, 2022, the Administrative Law Judge (ALJ) issued a Ruling Seeking Additional Information. On December 12, 2022, Cal Am filed its response to the ALJ's Inquiry.

A telephonic Prehearing Conference was held on December 14, 2022. No party appeared other than the applicant.

On January 10, 2023, the Assigned Commissioner John Reynolds issued a Scoping Memo (Scoping Ruling) to affirm the scope of the proceeding, and determine that hearings would not be necessary, as no disputed issues of material fact were raised at the PHC. Accordingly, an evidentiary hearing was not needed. The proceeding was submitted as of January 10, 2023.

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be

¹ D.92-03-093, March 31, 1992, Ordering Paragraph 6. Class A companies serve over 10,000 service connections, Class B 2001 through 10,000, Class C 501 through 2000 and Class D 500 service connections or less.

summarized in the final decision issued in that proceeding. There are no relevant public comments on the Docket Card of this proceeding.

2. Jurisdiction

Pursuant to Public Utilities Code §§ 816-830,² the Commission has the jurisdiction to regulate Cal Am's authority to issue debt to support its provision of utility service. Section 818 requires that short-term debt be repayable at a period of up to 12 months. Pursuant to §§ 1904(b) and 1904.1, a utility is required to pay a fee when the Commission authorizes a utility to issue debt securities.

3. Request

Cal Am seeks authorization to issue, sell, and deliver up to \$397,261,000 of new debt securities to meet its future financing needs based on a long-term forecast covering a proposed five-year period of 2022-2026.

Cal Am plans to use the proceeds for the following:

1. the discharge or refinancing of all or part of its existing indebtedness;
2. capital expenditures including construction, completion and improvement of Cal Am's facilities and infrastructure;
3. the acquisition of property to be used to provide utility service; and
4. the reimbursement of its treasury for capital expenditures.³

3.1. Debt Securities

Cal Am proposes to issue securities in the form of long-term bonds, notes, or other evidence of indebtedness, which are taxable and/or tax exempt. Cal Am seeks authority to finance capital projects, if available and cost effective, through tax-exempt government securities, issued either through American Water

² Unless specified otherwise, all subsequent code section references are to the Public Utilities Code.

³ Application at 2.

Capital Corporation (Capital Corp.) or directly from government entities. Cal Am states that the financial agreement with its affiliate, Capital Corp., will provide more favorable financing terms, and help it achieve flexibility and costs savings. We find it reasonable for Cal Am to utilize tax-exempt long-term financing, when these tax-exempt securities result in a lower overall cost when compared with similar taxable securities.

Cal Am has substantiated that the requested authority is necessary to satisfy its needs for financing capital expenditures for a proper purpose under § 817⁴ for issuing debt. Therefore, we grant Cal Am the authority to issue up to

⁴ Section 817 - A public utility may issue stocks and stock certificates or other evidence of interest or ownership, and bonds, notes, and other evidence of indebtedness payable at periods of more than 12 months after the date thereof, for any one or more of the following purposes and no others:

- a. For the acquisition of property.
- b. For the construction, completion, extension, or improvement of its facilities.
- c. For the improvement or maintenance of its service.
- d. For the discharge or lawful refunding of its obligations.
- e. For the financing of the acquisition and installation of electrical and plumbing appliances and agricultural equipment which are sold by other than a public utility, for use within the service area of the public utility.
- f. For the reorganization or readjustment of its indebtedness or capitalization upon a merger, consolidation, or other reorganization.
- g. For the retirement of or in exchange for one or more outstanding stocks or stock certificates or other evidence of interest or ownership of such public utility, or bonds, notes, or other evidence of indebtedness of such public utility, with or without the payment of cash.
- h. For the reimbursement of moneys actually expended from income or from any other money in the treasury of the public utility not secured by or obtained from the issue of stocks or stock certificates or other evidence of interest or ownership, or bonds, notes, or other evidences of indebtedness of the public utility, for any of the aforesaid purposes except maintenance of service and replacements, in cases where the applicant has kept its

\$397,261,000 of new long-term debt for its required purposes, as detailed in the application.

Consistent with § 824,⁵ Cal Am shall maintain records to identify the specific long-term debt issued pursuant to this decision and demonstrate that proceeds from such debt have been used only for the purposes authorized by this decision.

3.2. Debt Securities Enhancement and Interest Rate Management Features

Cal Am seeks authority to include certain debt securities enhancement and interest rate management features⁶ authorized in Decision (D.) 14-07-015 and D.18-07-013, to improve the terms of new debt securities issuances, lower the overall cost of new debt securities, and manage potential interest rate increases.

In its application, Cal Am also requests that such debt securities enhancement and interest rate management features not be counted as additional

accounts and vouchers for such expenditures in such manner as to enable the commission to ascertain the amount of money so expended and the purposes for which such expenditure was made.

⁵ Section 824 - The commission may require public utilities to account for the disposition of the proceeds of all sales of stocks and stock certificates or other evidence of interest or ownership, and bonds, notes, and other evidences of indebtedness, in such form and detail as it deems advisable, and may establish such rules as it deems reasonable and necessary to insure the disposition of such proceeds for the purposes specified in its order.

⁶ These include the put option; the call option (call premium); the sinking fund; hedging, including “fund today, price later” strategies (such as long hedges, treasury options, interest rate swaps), price today, fund later strategies (including treasury locks, treasury options, interest rate swaps); spread locks; spread options; swaptions; cap and collars; credit enhancements; capital replacements; interest deferrals; and delayed drawdowns.

financing against its authorized amount of new debt securities, in compliance with the New Financing Rule.⁷

We find that Cal Am's requests are in compliance with the New Financing Rule, and therefore we authorize Cal Am to use its requested debt securities enhancement and interest rate management features.

3.3. Forecast of Sources and Uses

Utilities seeking authority to issue debt or other securities are, in part, based on forecasted sources and uses of funds that illustrate the need for requesting financing authority. In its application, Cal Am projected its future financing needs the five-year period of 2022-2026 in Exhibit 6. Cal Am's forecast includes sources of funds, such as cash flow from operations, capital contribution from its affiliate, Capital Corp., and issuance of long-term debt under previous authorizations. Its forecast also includes uses of funds such as construction and

⁷ The "New Financing Rule" adopted by D.12-06-015 includes the following regulations regarding the issuance of new debt securities:

- Public utilities must issue debt in a prudent manner, consistent with market standards that encompass competition and transparency, with the goal of achieving the lowest long-term cost of capital.
- Public utilities must determine the financing terms of debt issues with due regard for their full financial condition and requirements, and current and anticipated market conditions.
- Public utilities may choose whether to issue debt securities via competitive or negotiated bid, as long as the basis of the method is chosen to achieve the lowest cost of capital.
- Public utilities with annual operating revenues of \$25 million or more must make every effort to encourage, assist, and recruit Women-, Minority-, Disabled Veteran-, and Lesbian, Gay, Bisexual, and Transgender-Owned Business Enterprises in being appointed as lead underwriter, book runner, or co-manager of debt securities offerings.
- Public utilities may use debt enhancements and hedges for debt securities, subject to certain restrictions and reporting requirements.

acquisition, and refinancing of its maturing long-term debt. We rely on Cal Am's forecast of its Sources and Uses presented in Table 1.

Table 1 - Sources and Uses**(in thousands)****California American Water⁸**

	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>Total</u>
Sources						
Cash from Operation	30,809	56,114	47,575	60,074	67,522	262,093
Capital Contribution from Parent	76,254	50,914	112,615	124,436	85,875	450,094
Issue LT Debt under Previous Authorization	40,000	9,247				49,247
Total Sources	147,063	116,275	160,190	184,510	153,397	761,434
Uses						
Construction Less Advances, and Acquisitions	147,063	156,016	254,899	290,021	230,697	1,078,695
Refinance LT Debt		45,000	25,000		10,000	80,000
Total Uses	147,063	201,016	279,899	290,021	240,697	1,158,695
Long Term Debt Authorization Needed (Includes Refinancings)	0	(84,741)	(119,709)	(105,511)	(87,300)	(397,261)

Cal Am states that it has used all authorized amounts from D.08-11-025, D.06-07-035, D.14-07-015, and D.10-03-004 presented in Table 2:

Table 2**Cal Am's Previous Authorized Debts and Others**

Decision (D)	Authorized Amount	Issued Amount	Unused Authorized Amount
D.08-11-025	\$35,000,000	\$35,000,000	\$0
D.06-07-035	\$187,000,000	\$187,000,000	\$0
D.10-03-004	\$85,000,000	\$85,000,000	\$0
D.14-07-015	\$92,440,000	\$92,440,000	\$0
D.18-07-013	\$359,450,000	\$350,203,000	\$9,247,000

⁸ Application, Exhibit 6.

The unused authorized amount of from D.18-07-015, as of the date of the application filing, was \$9,247,000.⁹ This amount is included in the third row titled, “Issue LT Debt under Previous Authorization” under annual sources for the year 2023 in Table 1 presented above.

In Table 1, Cal Am’s projected available cash flows from all internal sources is \$761,434,000, and total needs of \$1,158,695,000 for the five-year period years 2022 - 2026. As such, Cal Am projected a cash shortfall of \$397,261,000 for the projected years. In this application, Cal Am has requested \$397,261,000 in new financing authority to issue new long-term debt securities to meet its forecasted net cash flow for the projected year.

After reviewing the application, we find that Cal Am has established a need for the requested financing authority for the five-year period of 2022-2026. Therefore, we authorize Cal Am to issue up to \$397,261,000 of new long-term debt securities, which allow Cal Am to fund its capital expenditure plans for the five-year period of 2022-2026. This financing authority provides Cal Am with sufficiently liquid resources to refinance its maturing long-term debt, finance its public utility projects, or to acquire other utility property or systems.

It is important to note that a granting of financing authority to a utility does not obligate the Commission to approve any capital projects. Review of the reasonableness of capital projects occurs as needed through the appropriate regulatory process applicable to each capital project. Therefore, approval of this financing request does not prejudice the need for or the reasonableness of any of Cal Am’s forecasted projects for the five-year period of 2022-2026.

⁹ See Response to question 2 of ALJ’s Inquiry

3.4. Request for Waiver of Public Utilities Code § 818 Requirement

Cal Am seeks a waiver from § 818 requirements in its application. Section 818 states that no public utility may issue debt payable at periods of more than 12 months from the date of issuance without first obtaining Commission authorization stating the amount of debt to be issued, the purposes to which the proceeds are to be applied, and the opinion of the Commission that the purposes for which the proceeds are to be used are not reasonably chargeable to operating expenses or income.

In the past, the Commission has authorized waivers for Cal Am¹⁰ and other utilities,¹¹ to borrow under revolving credit arrangements payable at the periods up to twenty-four months, rather than the twelve-month period from the date of borrowing as required under § 818.

Cal Am requests the Commission to grant a similar waiver for the same reasons identified in D.14-07-015 and D.18-07-013. In its application, Cal Am asserts that the waiver will provide Cal Am potential financing cost savings when these prevailing short-term interest rates are relatively low.¹² These cost savings help it lower the cost of providing utility service to its customers.

Upon review of the application, we grant Cal Am a waiver from the requirements of § 818, and authorize Cal Am to borrow short-term debt under its revolving credit arrangements payable at periods of up to twenty-four months from the date of issuance for the projected period.

¹⁰ See D.14-07-015, Ordering Paragraph 3, D.18-07-013, OP 5

¹¹ See D.01-06-016 at 7-8, D.10-09-026 and D.11-01-034.

¹² Application at 2

3.5. Regulatory Fee

When a utility seeks authority to issue debt securities, §1904(b) requires that the Commission assess a fee based upon the amount of the proposed new financing. No fee is required for any portion of the new authorization dedicated to retiring existing debt for which a fee was previously paid. Accordingly, \$317,261,000 (the requested authority of \$397,261,000 less \$80,000,000 in refinancing) is subject to the fee.

Table 3 shows the calculation of the § 1904(b) fee for the debt securities authorized in this decision:

Table 3
Computation of Pub. Util. Code § 1904(b) Fee
for \$317,261,000 of New Debt Securities

Line	Amount of Debt Issued	Rate per \$1,000	Calculation of Fee	Fee
A	\$1,000,000	\$2 per \$1,000	$\$2 \times (\$1,000,000/1,000)$	\$2,000
B	\$9,000,000	\$1 per \$1,000	$\$1 \times (\$9,000,000/1,000)$	\$9,000
C	\$307,261,000	\$0.50 per \$1,000	$\$0.50 \times (\$307,261,000/1,000)$	\$153,631
Total	\$317,261,000			\$164,631

Therefore, the total fee for this new authority is \$164,631. Cal Am has paid the filing fee of \$160,007 for A.22-08-007 on August 24, 2022, pursuant to § 1904(b) fee requirements. However, it incorrectly removed \$9,247,000 from the fee calculation. The result is that Cal Am owes an additional \$4,624¹³ in § 1904(b) fees to execute this debt issuance. Cal Am shall pay an additional fee of \$4,624.

The authority granted by this decision shall not become effective until the fee is paid in full.

¹³ \$4,624 = \$164,631 - \$160,007.

3.6. California Environmental Quality Act

Under the California Environmental Quality Act (CEQA)¹⁴ and Rule 2.4 of the Commission's Rules of Practice and Procedure (Rules), the Commission must consider the environmental consequences of projects that are subject to our discretionary approval. Thus, we must consider whether approval of this application will alter an approved project, result in new projects, or change operations in ways that have an environmental impact. Cal Am is expected to comply with all environmental permitting requirements applicable to the construction and improvements that it undertakes in conjunction with the authorized debt securities in this decision. Since the details of the proposed improvements are unknown at this time, we put Cal Am on notice that our approval to issue debt does not constitute an implied or expressed waiver of applicable environmental regulations. All projects must comply with all applicable CEQA requirements and undergo a CEQA review as early as feasible in the planning process, as required by CEQA Guidelines Section 15004(b).

This decision does not authorize any capital expenditures or construction projects.

4. Conclusion

This decision grants Cal Am the authority to issue up to \$397,261,000 of new long-term debt securities either through its affiliate American Water Capital Corporation, or directly with a governmental entity. This decision also authorizes Cal Am to issue short-term debt securities for up to 24 months and

¹⁴ Public Resources Code Section 21080. In particular, Section 21080(b)(8) states, the "establishment, modification, structuring, restructuring or approval of rates, tolls, fares, or other charges by public agencies" is exempt from CEQA.

utilize selected debt securities enhancement and interest rate management features to improve the terms and lower the cost of new securities.

5. Comments on Proposed Decision

The proposed decision of ALJ KieuChinh Tran in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

6. Assignment of Proceeding

Commissioner John Reynolds is the assigned Commissioner and KieuChinh Tran is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Cal Am requests authority to issue new debt securities not exceeding \$397,261,000, to meet the shortfall of its forecast cash requirements for the 5-year period of 2022-2026.
2. Cal Am still has existing financing authority of \$9,247,000, pursuant to D.18-07-013.
3. Cal Am plans to use the proceeds:
 - (a) For the discharge or refinancing of all or part of its existing indebtedness;
 - (b) For capital expenditures including construction, completion, and improvement of Cal Am's facilities and infrastructure;
 - (c) For the acquisition of utility properties; and
 - (d) For the reimbursement of its treasury for capital expenditures.
4. Cal Am states that will seek the least cost financing available, though the debt securities issued by Capital Corp.

5. Cal Am requests a waiver of the § 818 requirement it may borrow under its short-term agreements repayable at periods up to 24 months from the date of borrowing.

6. Cal Am paid a filing fee in the sum of \$160,007 for A.22-08-007 on August 24, 2022, pursuant to § 1904(b). Cal Am did not remit \$4,624 of the § 1904(b) fee owed.

Conclusions of Law

1. Pursuant to §§ 816-851, the current application is subject to the Commission's jurisdiction because long-term debt securities issued by a utility for more than a twelve-month period.

2. Cal Am meets the requirements for obtaining financing authority.

3. Cal Am should be authorized to issue new Debt Securities of \$397,261,000 for the years 2022 through 2026.

4. Cal Am should use the proceeds:

- (a) For the discharge or refinancing of all or part of its existing indebtedness;
- (b) For capital expenditures including construction, completion and improvement of Cal Am's facilities and infrastructure;
- (c) For the acquisition of utility properties; and
- (d) For the reimbursement of its treasury for capital expenditures.

5. Cal Am should be granted a waiver from the requirements of § 818 to borrow under its short-term agreements repayable at periods up to 24 months from the issuance date.

6. Cal Am should not use the proceeds from the new securities authorized by this order to fund its capital projects until it has obtained all required approvals for the projects, including any required environmental review under CEQA.

7. The proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. California-American Water Company is authorized to issue new long term debt securities not exceeding \$397,261,000.
2. California-American Water Company shall apply the proceeds of the indebtedness authorized herein for the purposes specified in Application 22-08-007 and discussed in this decision.
3. California-American Water Company shall maintain records to identify the specific long-term debt issued pursuant to this order and demonstrate that the proceeds from such debt have been used only for public utility purposes.
4. California-American Water Company is granted a waiver from the requirements of Public Utilities Code Section 818 as it applies to new short-term debt issued under its revolving credit arrangement.
5. California-American Water Company shall not use the proceeds from the new securities authorized by this order to fund its capital projects until it has obtained all required approvals for such projects.
6. California-American Water Company shall comply with all environmental laws and regulations applicable to its capital projects, including the California Environmental Quality Act.
7. California-American Water Company shall remit an additional fee of \$4,624 pursuant to § 1904(b) to the Commission prior to issuance of the new authorized debt securities.
8. Application 22-08-007 is closed.

This order is effective today.

Dated _____, at San Francisco, California.